Remarks

Claims 1 - 16 are pending in this application. Claims 1 – 3, 6 – 16 are amended. Claims 11, 12, 13,14 and 15 are placed in independent form and represent an excess of three independent claims for which additional fees are believed to be required.

Claim Objections

Claims 11, 13 - 16 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claims 11, 13 - 16 are amended to place the claims in proper form. Withdrawal of the claim objections is respectfully requested.

Claim Rejections under 35 USC §112, second paragraph.

In claims 11 - 13 and 15, the phrases identified by the Examiner have been corrected to remove indefiniteness and provide clarity. Withdrawal of the rejections under 35 USC §112, second paragraph is respectfully requested.

Claim Rejections under 35 USC §103

Claims 1 - 6, 8 - 10, 11, 14, 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over Barmettler et al. (US 7203940 B2, hereinafter, *Barmettler*) in view of Chanut (US 2004/0002367 A1, hereinafter, *Chanut*).

Applicants respectfully disagree with the rejection for the following reasons.

Rejection of Claim 1

Applicants' claim 1 recites and discloses a service which is transmitted by a broadcaster or advertiser, is executable on a terminal and relates to live events, televised games, or interactive promotions. Such executable services are linked with audio-visual programs to provide enhancement. Examples of executable services can comprise HTML pages and dependencies such as GIF or JPEG pictures or Flash animations. Specifically, claim 1 recites the selective acquisition of computer programs required by a received service and absent locally. The selective acquisition is controlled in accordance with information associated with the service.

The service disclosed by *Barmettler* is different to that of Applicants' and relates to media rendering, as disclosed in *Barmettler 's* Abstract. Consequently, the application identifier of *Barmettler* cannot be considered as equivalent to the

information associated with services disclosed and recited by Applicants. *Barmettler's* application identifier is associated with an application to be installed on a client that is necessary to render a media element, i.e. a media renderer. *Barmettler*'s applications, are media renderers which are significantly different from the executable services disclosed and recited by Applicants.

The Examiner argues that *Barmettler,* col. 5 line 60 – col. 6 line 7 discloses:

> "a module for receiving information associated with said services, provided to receive said information prior to the execution of said services".

The Examiner asserts that the plug-in executor and plug-in installer provide an application identifier which comprise a file extension, file name etc,. Furthermore, the Examiner suggests that execution of the media rendering application does not happen until a "later stage" and points to the flow chart of figure 5 in support of "not happening until a later stage". However, the spatial location of graphical flow chart symbols within figure 5 provides no support for the Examiner's temporal assertion.

Applicants' claim 1 recites "a module for identifying", however, the Examiner fails to identify any corresponding structure in the teachings of *Barmettler.*

The Examiner argues that *Barmettler's,* Fig. 5, #273, #276, and col. 9, lines 25 - 41 discloses the selective decision module of claim 1 of :

> "a selective decision module for the execution of said services, provided to allow the execution of said services if said computer programs required for said services are available locally".

Figure 5 shows at box 276 that if it is determined that a required version of an application exists, step 279 is executed, where desired media is downloaded and the installed application is executed. *Barmettler* thus executes an application, not a service. As stated previously, Applicants' services as recited in claim 1 cannot be considered disclosed by or equivalent to *Barmettler's* applications, which are merely media renderers. Consequently, *Barmettler* does not disclose a conditional execution decision device for the execution of services received via a communication network, as in claim 1. *Barmettler* is about execution of applications, i.e. media renderers, not about execution of services.

The Examiner admits that *Barmettler* does not disclose Applicants claim 1 feature of;

> "…an automatic selective decision module controlling acquisition of computer programs by one of allowing and preventing the downloading of said computer programs according to said information associated with said services."

The Examiner looks to *Chanut* to provide the feature missing from *Barmettler*.

The Examiner states that,

> "*Chanut* discloses a method of determining whether to download a file or not, based at least indirectly on the file length, in comparison to a known resource. (See figure 3, 0022, 0025-0026, 0028, and 0049). The resource can be, for example, battery power, which corresponds to the amount of time before the device stops functioning (0004)."

The Examiner continues stating that it would have been obvious to one of ordinary skill to combine the decision capability disclosed by Chanut with the teachings of Barmettler. However, such a combination still fails to provide the features absent in Barmettler because Chanut's decision ability is based on computation within the user device using parameters such as memory availability, user device power status and airtime remaining and is not controlled as Applicant's recite by;

> "…one of allowing and preventing the downloading of said computer programs according to said information associated with said services." (under score added for emphasis)

Since Chanut's automatic decision is not controlled by information associated with the services, as recited, but by user device calculation, Chanut's disclosure is contrary to Applicants' claim 1 and therefore teaches away. For at least the reasons discussed above, the Examiners' combination of *Barmettler* with *Chanut* fails to disclose or suggest Applicant's arrangements and therefore claim1 is not rendered obvious and is patentable over the art of record. Withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested.

Rejection of claim 2.

The Examiner asserts that *Chanut* discloses information includes temporal information relating to the validity of execution of the services and provides various citations. However the Examiner is not correct because none of the provided citations disclose or suggest,

> "…temporal information relating to the validity of execution of said services"

as recited in claim 2.

Chanut makes no disclosure or suggestion that the information includes temporal information as recited. Furthermore *Chanut* provides no disclosure or suggestion to use source information including temporal information that relates to validity of service execution to facilitate a selective acquisition decision.

Chanut is particularly concerned with (cell phone) battery power and the determination of a gross amount of resources (battery power) which would be expended during a download. The Examiner states that temporal information corresponds to the time it would take to download the application, however, such temporal information is derived within the user device by calculation or look up table and is not originated from the source service as recited. *Chanut* is specifically directed to calculating the amount of resources, power, airtime, consumed per byte and this is performed without the use of temporal information from the service as Applicants recite.

Since *Chanut* fails to disclose or suggest Applicants' claim 2 temporal information relating to the validity of execution of the services, and for the reasons discussed in claim 1, claim 2 is not obvious and is patentable over the art of record. Withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested.

Rejection of claims 3 - 5.

The Examiner asserts that *Chanut* discloses a conditional execution device with reference to claim 2. However, as discussed previously for claim 2, *Chanut* lacks use of temporal information as recited by Applicants. Hence, since claims 3, 4 and 5 depend from claim 2, claims 3, 4 and 5 are, for the same reasons, not obvious and withdrawal of the rejections is respectfully requested.

Rejection of claim 6

Claim 6 depends from claims 3, 2 ,1, and for the same reasons is not obvious, withdrawal of the rejection is respectfully requested.

Rejection of claim 8

Claim 8 depends from claim 1, and for the same reasons is not obvious, withdrawal of the rejection is respectfully requested.

Rejection of claim 9

Claim 9 depends from claims 8 and 1, and for the same reasons is not obvious, withdrawal of the rejection is respectfully requested.

Rejection of claim 10

Claim 10 depends from claim 1, and for the same reasons is not obvious, withdrawal of the rejection is respectfully requested.

Rejection of claim 11

The Examiner states that method claim 11 recites substantially similar limitations as claim 1 and is therefore rejected using the same art and rationale as set forth for claim 1. Since the deficiencies of the Examiner's obviousness combination of *Barmettler* in view of *Chanut* have been discussed with respect to claim 1, for the same reasons claim 11 is not obvious and is patentable over *Barmettler* in view of *Chanut*. Withdrawal of the rejection is respectfully requested.

Rejection of claim 14

The Examiner states that method claim 14 recites substantially similar limitations as claim 11 and is therefore rejected using the same art and rationale as set forth for claims 11 and 1. However, the obviousness rejection of claims 11 and 1 have been discussed previously and the combination of references shown not to render claims 1 and 11 obvious. Thus for the same reasons as claims 1 and 11, claim 14 is not obvious and withdrawal of the rejection is respectfully requested.

Rejection of claim 16

The Examiner states that claim 16 recites substantially similar limitations as claim 1 and is therefore rejected using the same art and rationale as set forth for claim 1. Thus for the same reasons as claim 1, claim 16 is not obvious and withdrawal of the rejection is respectfully requested.

Claims 7, 12 - 13 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Barmettler* in view of *Chanut*, in further view of Gosling et al (US Patent 6052732, hereinafter, *Gosling*).

Rejection of claim 7

The Examiner admits that *Barmettler* in view of *Chanut*, fails to disclose Applicants' claim 7 feature of "forced downloading" and looks to *Gosling* to provide the missing feature. The Examiner asserts that,

> "*Gosling* discloses the automatic downloading of object viewers. Gosling discloses a configuration file that can be used to bypass user interaction and accept the object viewer (Column 8, lines 42-53)." **(emphasis added)**

However, the Examiner's assertion that *Gosling* can bypass user interaction is incorrect because at column 8, lines 42-53 *Gosling* discloses;

> "…a determination is made (321) whether or not to accept the object viewer. For example, the user may be asked whether or not accept the object viewer, or a default decision to accept or not accept such object viewers may be included a configuration file."

Although *Gosling* discloses the automatic downloading but describes execution of object viewers, not execution of services as recited. *Gosling* discloses that the user may be asked whether or not accept the download which is essentially contrary to Applicants' forced download. Therefore, *Gosling* fails to disclose or suggest a forced download as taught and recited by Applicants' claim 7. Since *Gosling* fails disclose or suggest a forced download, and, because claim 7 depends from claim 1, claim 7 is not rendered obvious and is patentable over *Barmettler* in view of *Chanut*, in view of *Gosling.* Withdrawal of the rejection is respectfully requested.

Rejection of claim 12

The Examiner admits that *Barmettler* & *Chanut* fail to disclose an incorporation means that includes at least one forced downloading indicator in the information. The Examiner looks to *Gosling* to remedy the deficiency and asserts that;

> "Gosling discloses a configuration file that can be used to bypass user interaction and accept the object viewer (Column 8, lines 42-53).

However, as discussed for claim 7, the Examiners' bypass assertion is incorrect. Thus, *Gosling* fails to remedy the admitted deficiency of *Barmettler* in view of *Chanut* and claim 12 is not obvious and is patentable over the references of record. Withdrawal of the rejection of claim 12 is respectfully requested.

Rejection of claim 13

The Examiner states that method claim 13 recites substantially similar limitations as claims 1 and 12 and is therefore rejected using the same art and rationale as previously set forth. However, the obviousness rejection of claims 1 and 12 have been discussed previously and the combination of references fails to render claims 1 and 12 obvious. Thus for the same reasons, claim 13 is not obvious and is patentable over the references of record. Withdrawal of the rejection of claim 13 is respectfully requested.

Rejection of claim 15

The Examiner states that claim 15 recites substantially similar limitations as claim 12 and is therefore rejected using the same art and rationale as previously set forth. However, as discussed for claims 7 and 12, the Examiners' bypass assertion regarding *Gosling* is incorrect. Thus, *Gosling* fails to remedy the admitted deficiency of *Barmettler* in view of *Chanut* and claim 15 is not obvious and is patentable over the references of record. Withdrawal of the rejection of claim 15 is respectfully requested.

It is believed that all of the objections set forth in the Official Action have been fully met, hence favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone Applicants' attorney in order to overcome any additional objections that the Examiner might have.

The Examiner is authorized to charge Deposit Account No. 07-0832 the fee necessary for three additional independent claims in excess of those already paid for, and for one months extension of time to respond to this Action. If there are any additional charges in connection with this application the Examiner is authorized to charge Deposit Account No. 07-0832

Respectfully submitted
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